REMARKS/ARGUMENTS

Claims 1, 2, 4-7, 9-15, and 17-23 are currently pending.

Claims 1-5, 7, 9-13, 15, 17-19, and 20-23 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Benyassine et al. (US Patent No. 6,721,712)(hereinafter "Benyassine") in view of Kramer et al. (U.S. Patent No. 6,658,027)(hereinafter "Kramer").

Claims 6, 14, 18, and 22 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Benyassine in view of Kramer and further in view of Mizusawa et al. (US Patent Publication No. 2002/0037002)(hereinafter "Mizusawa").

Reconsideration in view of the foregoing amendments and the following remarks is respectfully requested.

Rejections under 35 U.S.C. §103

Claims 1-5, 7, 9-13, 15, 17-19, and 20-23

Claims 1-5, 7, 9-13, 15, 17-19, and 20-23 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Benyassine in view of Kramer.

Solely in order to expedite prosecution, independent claims 1, 7, 11, 15, and 20 have been amended, Applicants submit that even if Benyassine and Kramer could be combined as suggested in the Office Action, the combination fails to disclose or suggest all of the features of claim 1. For example, claim 1 recites, in part, that "the audio data frames transmitted at the first frame rate have a first interval between the frames, wherein the audio data frames transmitted at the second frame rate have a second interval between the frame, and wherein the first interval and the second interval are constant."

The Office Action relies on col. 2, lines 35-57, col. 5, lines 30-32, col. 6, lines 54-67, col. 7, lines 1-12, and Fig. 1 of Benyassine to teach these features of claim 1. However, the cited portions of Benyassine do not teach or even suggest these features of claim 1. Col. 2, lines 35-57 of Benyassine merely describes a system for providing frame rate conversion for audio data between discontinuous transmission (DTX) enabled devices and non-DTX enable devices. Col. 5, lines 30-32 of Benyassine merely indicates that DTX refers to the suspension of speech

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data transmission when there is no voice activity in the speech signal. Col. 6, lines 54-67 and col. 7, lines 1-12 merely describe a rate encoding module (Fig. 1, reference no. 134) that receives frames of voice data from a non-DTX enabled device (Fig. 1, reference no. 120) and makes a determination whether the data packet needs to be transmitted to a DTX-enabled device (Fig. 1, reference no. 140). See Benyassine, col. 6, lines 27-53. The rate conversion module detects differences from frame to frame in the background characteristics of an encoded speech signal being received from the non-DTX enabled device and makes a determination whether the differences in the background characteristics from the previous frame exceed a specific threshold. See Benyassine, col. 6, lines 27-53. If the background characteristics of the present frame are not significantly different from those of the previous frame, the present frame is dropped in order to prevent redundant background data from being transmitted to the DTX enabled device. Otherwise, if the background characteristics of the present frame have changed significantly from the previous frame, the rate encoding module updates the DTX enabled device with the new background characteristics by re-encoding the present frame and transmitting the re-encoded frame to the DTX enabled device. See Benyassine, col. 6, lines 54-67.

The Office Action alleges that "[b]ecause the pause in a transmitted conversation does not need to result a suspension of speech-data transmission, the constant interval between frames from the non-DTX transmitter can be preserved." Office Action, page 4, last paragraph. Applicants respectfully disagree. According to the teachings of Benyassine, the interval between frames to and from the DTX enabled communication device are not transmitted with a constant interval between frames. When the non-DTX enabled communication device (Fig. 1, reference no. 120) transmits data to the DTX enabled communication device (Fig. 1, reference no. 140), the rate encoding module intercepts the frames of data from the non-DTX enabled communication device and discards those frame that do not include voice data and where there is no significant change in the background characteristics, and transmits the non-discarded frames to the DTX enabled device. Thus, the interval of the frames being received at the DTX enabled device are not received at a constant interval as recited in claim 1. Furthermore, when the DTX enabled communication device (Fig. 1, reference no. 140) transmits data to the non-DTX enabled

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communication device (Fig. 1, reference no. 120), the DTX enabled communication suspends speech-data transmission when there is a pause in conversation. See <u>Benyassine</u>, col. 1, lines 44-49. Thus, the interval of frames of data being transmitted from the DTX enabled device are not transmitted at a constant interval as recited in claim 1.

Therefore, Benyassine does not teach or even suggest that "the audio data frames transmitted at the first frame rate have a first interval between the frames, wherein the audio data frames transmitted at the second frame rate have a second interval between the frame, and wherein the first interval and the second interval are constant" as recited in claim 1, because the frame rates to and from the DTX enabled device are not constant as alleged in the Office Action. Kramer fails to remedy the deficiencies of Benyassine.

For at least the reasons provided, the combination of Benyassine and Kramer fails to disclose or suggest all of the features of claim 1. Independent claims 7, 11, 15, and 20 should also be allowable for similar reasons as claim 1. Dependent claims 2-5, which depend from claim 1, claims 9 and 10, which depend from claim 7, claims 12 and 13, which depend from claim 11, claims 17-19, which depend from claim 15, and claims 21-23, which depend from claim 20, should also be in condition for allowance at least due to their dependence from independent claims 1, 7, 11, 15, and 20, respectively.

Accordingly, withdrawal of the rejection of claims 1-5, 7, 9-13, 15, 17-19, and 20-23 under 35 U.S.C. §103(a) is respectfully requested.

<u>Claims 6, 14, 18, and 22</u>

Claims 6, 14, 18, and 22 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Benyassine in view of Kramer and further in view of Mizusawa.

Claim 6 depends from claim 1, claim 14 depends from claim 11, claim 18 depends from claim 15, and claim 22 depends from claim 20, and the rejection of claims 6, 14, 18, and 22 is premised on the assertion that the combination of Benyassine and Kramer discloses or suggests the features recited in claims 1, 11, 15 and 20 and Mizusawa discloses or suggests the remaining features of claims 6, 14, 18, and 22. As discussed above, however, the combination of Benyassine and Kramer does not disclose or suggest all of the features recited in

claims 1, 11, 15 and 20. As best understood, Mizusawa provides no teaching or suggestion that would remedy this deficiency.

Accordingly, withdrawal of the rejection of claims 6, 14, 18, and 22 under 35 U.S.C. §103 is respectfully requested.

CONCLUSION

In view of the foregoing, Applicants believe all claims now pending in this Application are in condition for allowance and an action to that end is respectfully requested.

If the Examiner believes a telephone conference would expedite prosecution of this application, please telephone the undersigned at 858-350-6100.

Respectfully submitted,

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